

## REMARKS

### **I. Introduction**

Claims 100 to 106 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Rejection of Claims 100 to 103 Under 35 USC §102(b)**

Claims 100 to 103 were rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,609,285 (“Grant et al.”). Applicants respectfully submit that Grant et al. do not anticipate the present claims for the following reasons.

Although Applicants do not necessarily agree with the merits of this rejection, to facilitate matters, claim 100 has been amended herein without prejudice to recite that at least a portion of the trocar shaft that is extendable distally relative to a clamping face at the distal end of the housing and that is extendable between the clamping face and the anvil is flexible. Support for this amendment may be found, for example, at Figures 1 and 8.

It is respectfully submitted that Grant et al. do not anticipate claim 100 for at least the reason that Grant et al. do not disclose, or even suggest, all of the features recited in claim 100. For example, Grant et al. do not disclose, or even suggest, that at least a portion of a trocar shaft that is extendable distally relative to a clamping face at a distal end of a housing and that is extendable between a clamping face and an anvil is flexible, as recited in amended claim 100. That is, the portion of the tension-torsion cable 84 referred to in the Final Office Action as being flexible is not extendable between a clamping face and an anvil.

As for claims 101 to 103, which ultimately depend from claim 100 and therefore include all of the features recited in claim 100, it is respectfully submitted that Grant et al. do not anticipate any of these dependent claims for at least the same reasons set forth above in support of the patentability of claim 100.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

### **III. Rejection of Claims 104 to 106 Under 35 U.S.C. § 103(a)**

Regarding the rejection of claims 104 to 106 under 35 U.S.C. § 103(a) as unpatentable over the combination of Grant et al. and U.S. Patent No. 6,491,201 (“Whitman”), since claims 104 to 106 ultimately depend from claim 100, it is respectfully

submitted that these dependent claims are patentable over the combination of Grant et al. and Whitman for at least the reasons more fully set forth above.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

**IV. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: March 19, 2008

By: /Clifford A. Ulrich/  
Clifford A. Ulrich  
Reg. No. 42,194

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200

CUSTOMER NO. 26646